

The Leesburg Planning Commission met on Thursday, September 1, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Christopher Murphy, Wade Burkholder, Brian Boucher, Tom Mason, Bill Ackman, Barbara Beach and Jennifer Marcus.

CALL TO ORDER

The meeting was called to order at 7:00pm by Chairman Wright. At this time there was a moment of silence in remembrance of the Hurricane Katrina victims.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Chairman Wright
Commissioner Bangert
Commissioner Barnes
Commissioner Burk
Commissioner Hoovler
Commissioner Kalriess
Commissioner Moore
Mayor Umstattd

ADOPTION OF AGENDA

Commissioner Barnes moved to adopt the agenda with the following change: Adding discussion of the Town Plan under new business.

Motion: Barnes
Second: Kalriess
Carried: 7-0

APPROVAL OF MINUTES

Commissioner Hoovler moved to adopt the minutes of the August 4, 2005 meeting as presented.

Motion: Hoovler
Second: Bangert
Carried: 5-0-2

Commissioners Burk and Moore abstained from this vote since they were not in attendance at that meeting.

.

CHAIRMAN'S STATEMENT

Chairman Wright introduced the two new planning commissioners and welcomed them. He also introduced the new Town Attorney, Barbara Beach. He went on to review tonight's agenda and informed the public that they would have five minutes to speak during the petitioner's session and the public hearing portion.

PETITIONERS

Charles King of 414 Lacey Court came forward to request the R-1 zoning remain in place and to deny the application of Meadowbrook. The applicant is the one who submitted three plans none of which clearly set out the proposed application and proffers. He referenced the proffers that were submitted less than 24-hours prior to this hearing. He referenced staff comments and the applicant's response to them, the fact that this application fails to comply with the town plan, and does not meet the zoning ordinance requirements.

Ann Jansen of 105 Balch Springs Circle referenced the neo-traditional design in this application, stating that while the concept is good and might work in some areas, putting this along a four lane highway seems dangerous. The resulting additional open space is not represented in the application.

Randy Buffenbarger of 420 Lacey Court read statements from Centex. He focused on an excerpt regarding revenues for Centex and stock returns. Their net profit was over \$1 billion. He referenced his prior appearance that mentioned big business equals big profits, and he encouraged the commission to review the proffers closely and to consider a nice development in the area, not an overcrowded, poorly planned one.

Hub Turner, 1107 Bradfield, Drive, SW, came forward with several pictures that showed the traffic on the Route 15 corridor that presently exists. He focused on the Governor's Drive/Route 621 intersection with Route 15. He stressed that the infrastructure was not in place to be able to support additional housing and retail development.

Ann Jones of 1232 Bradfield Drive referenced information from town plan visioning sessions. This encouraged larger lots, curtailed residential development, lower impact development, etc. for this area. She went on to mention the increased auto trips, increased pollution and time it would take to get out of neighborhoods as something that needs to be considered prior to acceptance of any application.

John Foote, representing Walsh Colucci, introduced several other members of the Walsh Colucci team. He mentioned the many jurisdictions he has worked in representing developers. His confidence in the Centex development was reiterated. Smaller developers were lost casualties to the recession of the 1990's thereby creating an industry with larger players. He feels that the changes made were positive, e.g., Battlefield

Parkway is now part of the Phase zero development. If the road improvements are not made, then people will not be able to get in or out of the area. Parkland has been shifted to accommodate recommendations, density and uses are consistent with town plans. He again reiterated that staff was present to answer any questions regarding this application.

John Tett of 503 Wolf Court questioned a proposed 20-acre school site. He referred back to an August meeting where discussion centered around the fact that there would be four schools along Evergreen Mill Road. He referenced the traffic there now and what this impact would be. He feels that the school board and staff are considering what's best for the children – he would like to see what's best for both children and parents. There are too many unknowns in how the school will operate and be staffed. He feels that a school site along Masons Lane would make much more sense. Neighbors have agreed with this.

Sam Adamo of the Loudoun County Public Schools came forward to provide some historic perspective on the school site. He reviewed some of the sites that they had under consideration and then referred to the lease site they discussed with Centex. He noted that the concept has been considered in several areas around the county. He did note that the conceptual drawing does not denote a “done deal”.

Hub Turner came back up and said that the traffic will break down anyhow because of the high volume through traffic. Again, adding 25,000 trips per day will not help at all.

At this time the Petitioners session was closed.

PUBLIC HEARING

TLSE 2005 0003 - PetsMart Veterinary Hospital. Michael Romeo came forward as representative for the applicant. He deferred the presentation to Wade Burkholder of staff.

Mr. Burkholder came forward and stated that the special exception was for a site at 510 East Market Street. This is part of a redevelopment of the old retail space formerly occupied by K-Mart. All of the parking, buffering, etc. have already been addressed and this use will not impact the building. The veterinary hospital must be within a completely enclosed building, and as part of the conditions, there must be licensed and approved disposal companies. Staff is recommending approval pending the conditions of the application are met.

Since there were no members of the public to address the Commission, the public hearing was closed at this point. Discussion turned to the Commission level

Commissioner Barnes asked Mr. Romeo if this was basically going to be the same as the current store in Sterling.

Commissioner Hoovler asked what the capacity of the veterinary hospital would be. How many pets would be in the facility at any one time? Mr. Romeo responded that he was not certain.

Mayor Umstattd asked about the medical waste disposal and the definition of the word similar with regard to mentioning a name for the disposal. Should it say similarly qualified in the condition statement? Mr. Romeo said he had no problem with that.

Commissioner Burk asked whether there should be a concern about increase of animal waste? Mr. Romeo said yes, there would be an increase, but that this is removed through normal waste removal.

Commissioner Moore questioned medical waste to ask whether this included partially used medications? Mr. Romeo said that yes, this was included in the term medical waste.

Chairman Wright questioned the terminology on the ventilation statement with regard to the term shall rather than will. He also brought up the statement previously made by the Mayor. He then asked Commissioner Moore about his statement and asked if the FDA standards were being met. Commissioner Moore said it should be so stated in the application as follows: "That all pharmaceutical waste will be disposed of in accordance with FDA standards". Mr. Romeo said that statement was acceptable to them.

Commissioner Barnes moved to waive the ten-day waiting period on this application and to vote on this tonight.

Motion: Barnes
Second: Bangert
Carried: 7-0

Commissioner Kalriess moved to approve TLSE 2005 0003 as modified by Commissioner Moore.

Motion: Kalriess
Second: Moore
Carried: 7-0

ZONING

Chairman Wright asked Commissioners Moore and Burk if they had reviewed the material pertinent to the Meadowbrook application, and if they felt that they were prepared to vote on this. Commissioner Moore expressed concern over the late submission to Commissioners of yet another set of information pertaining to this application and stated that he had not been able to review this information fully since it was presented late yesterday evening. Chairman Wright agreed that all Commissioners faced the same set of circumstances.

Christopher Murphy came forward to synopsise the events that led to this point, recounting the various worksessions, public hearings, etc. He mentioned the various discrepancies during those meetings and any progress made toward rectifying these discrepancies.

Commissioner Moore asked staff if they had reviewed the documents that were provided them yesterday afternoon. Mr. Murphy responded that they did not have adequate time to properly review the documents.

Commissioner Kalriess asked for comment from the applicant and a staff response regarding the August 15th letter in reference to active recreation space. Sally Gillette came forward and said the percentage number was a result of dwelling units and requested recreation space. Her discussion elaborated on the amount of space that was actually being included. Commissioner Bangert asked what was used with regard to zoning designation from the county plan for number of units per acre. She went on to ask what the town required in an R-4 district. Brian Boucher of town staff responded that the town does not require active recreation space in an R-4 zone. He went on to discuss the various densities the requirements within them. There was some further discussion on the number of lots of varying sizes. Ms. Gillette asked that focus be brought back to the percentage of recreation space, stating that they comply with the town requirements. Mr. Boucher made a point that a stormwater retention pond was actually being considered as part of recreation space and this is one of the things that makes the percentages somewhat unclear.

Mr. Neville came forward to explain the lot sizes as indicated on the plans. He stated that lot depths of 110 feet to 120 feet were used in the calculations for the recreation space percentages.

Commissioner Kalriess asked staff why the pond was considered a regional pond. Tom Mason responded that the pond will control a large area of watershed, therefore the regional designation. Mr. Kalriess asked about the pool which is a community pool and not a public pool. Why would this then be a public benefit. Ms. Gillette responded that this pool will take these community members out of the population that uses the Ida Lee pool.

Commissioner Barnes asked if the 20-acres were leased to the school board or dedicated. The response from Mr. Adamo was that there was a 99 year lease to enable construction to begin sooner. Eventually the land will be proffered to the county school system. Mr. Barnes asked if 20-acres on Masons Lane would be feasible. Mr. Adamo said they need to look at the overall development plan and find the safest place to put a new school. Mr. Barnes said that having all busses converge into one area was not the best idea and again asked if the Masons Lane location could be considered.

Commissioner Hoovler asked Dr. Adamo if he had seen the concept plan for the school site. Dr. Adamo said that no, he had not seen this. There was some further discussion on the usefulness of the site from a geographical stand along with traffic impact.

Commissioner Bangert expressed concern about the definition of Phase Zero. She understands this to mean the phase up to an occupancy permit. How does the town interpret this? Brian Boucher said there are proffers that require all road improvements be made prior to any occupancy permits being issued. According to previous proffers, the entire site could be built without going to final inspection for occupancy. The applicant offered to provide a redlined version of their intentions to outline the specifics of the road improvements and when they will take place.

Mayor Umstattd noted there has been an unusual argument made regarding the definition of “approved” as it relates to the annexation area. She feels that the town is being put in the posture to deny other applications while approving this definition. There was some discussion on AADP policies with regard to density.

Commissioner Burk asked about distance with regard to bussing vs. walking. Dr. Adamo responded it is 8/10 of a mile. How many units are within this distance? Dr. Adamo said there were qualifiers with regard to safety, such as sidewalks, traffic intensity, etc. Ms. Gillette said that the homes on the north side of Battlefield Parkway fall within this distance, however, it is unlikely that they will allow children to cross Battlefield Parkway. Mr. Burk further asked about the Habitat for Humanity proffer. The applicant responded that Centex will proffer sites that can be developed by Habitat. There was some further discussion regarding the development and final sale of these homes. Mr. Hoovler said there are various policies that Habitat has in place, but they would need to work out how this particular proffer would be handled. There was some further discussion on the two over twos with regard to what they look like, how they will be priced and what their market might be. This housing will be placed more centrally on the area, rather than near Route 15 as initially proposed.

Commissioner Moore asked if there was a deadline that needed to be met that necessitated the vote tonight. The answer was that yes, there is a deadline and it would be important to vote on this at this meeting.

Commissioner Bangert moved to deny rezoning of TLZM 2004-0001 for the reasons stated in the September 1, 2005 Staff report.

Commissioner Hoovler stated that he like many aspects of this application, but feels that staff issues have not been addressed by the applicant, especially through the many submissions. He added that he liked the housing mix and sees promise in this type of development.

Commissioner Kalriess was also pained by the denial of the application. He believes that they simply ran out of time. The application has promise. The road improvements will be borne by the citizens. Denial is a missed opportunity with everyone losing in the long

run. Other concerns include transportation studies, densities, using the town plan as a serious guide, mix of units and uses, the proffers and their untimely submission within twenty something hours of this meeting. While they have come a long way, there is still work to be done. A collaborative effort with the community could yield insight into a product mix and transportation plan that could work.

Mayor Umstattd thanked everyone for the work that has gone into this application. Staff concerns, however, were not addressed and the proffers were not clearly set out. She went on to thank the citizens that became involved and commended them for their professional demeanor.

Commissioner Burk stressed that he was displeased with the late submission of the packet last night. Not allowing adequate time for review seemed somewhat unfair.

Commissioner Bangert said that the applicant was so close, that they were almost there, but also reiterated that the late submission of the new proffers was unfair. The proffers need to state clearly what is going to happen. Playing the word game by trying to pass some things through is not wise for anyone. She does not want to see financial impact put on citizens if it doesn't have to be. Basically the language in the proffers is not acceptable to her.

Commissioner Moore thanked those that were involved in this process over the past several months stating that much hard work was put into this by everyone. He stressed the open space requirements and also was disappointed that the proffer language was so ambiguous.

Chairman Wright thanked everyone for the hard work involved in this process, including the citizens who took the initiative to become active in voicing their concerns. His main concerns were transportation, open space, proffer language and details of plan. The transportation proffer of Battlefield Parkway at the outset was very important. The open space was a concern because of the small lot size for some of the housing. There needs to be a consistent percentage for people to enjoy. There are still too many loopholes with regard to the proffers. The language is consistently unclear. Lastly, the plan details do not reflect the latest changes. He echoed the comments made by other commissioners stating that this application has some real promise, but the submissions did not answer the concerns that were created.

Motion: Bangert
Second: Hoovler
Carried: 7-0

SUBDIVISION AND LAND DEVELOPMENT

None

COMPREHENSIVE PLANNING

None

STAFF AND COMMITTEE REPORTS

Mayor Umstattd advised the Commission that the Town Council would be meeting on Tuesday night in worksession for the Town Plan. The vote is scheduled for September 13 on the Town Plan.

Chairman Wright reported on the UGA/JLMA Subcommittee. There was a joint meeting with the County Subcommittee. The next meeting is scheduled for September 14 to discuss the boundaries of this area. The next meeting for the Leesburg subcommittee/Town Council subcommittee is scheduled for Tuesday, September 6th prior to their worksession. Further joint county meetings will begin in earnest in October, once they have completed their CPAM meetings. Commissioner Kalriess said they will bring their work product to the Commission prior to the joint meeting with the council. He stated that an outline has been prepared that covers the items they intend to discuss. He briefed the Commission on progress made so far.

OLD BUSINESS

Chairman Wright turned the floor over to Susan Swift to discuss Process Improvements. Mr. Wright explained that the goal is to focus and find ways to improve and streamline the application process. Ms. Swift gave the Commission the paperwork for special exceptions and rezonings. This also includes a timeline indicating hearing dates for both Planning Commission and Council. This information was distributed to various engineering firms, developers, etc. for them to use as a guideline. One way to assist the Commission is to make the application available to them upon receipt, however, Commission comments would not be included until after the hearing. For applications with both special exceptions and rezonings, the special exception application is premature since a) tenants are not yet determined and b) the zoning has not yet been approved. Commissioner Wright commented that often one portion of the application depends on the other pieces of the application, so the basic application such as zoning should go first prior to considering the rest of the application. Commissioner Kalriess felt that this would extend the application process. Chairman Wright suggested that there be more interaction with staff prior to the hearing meeting.

Mayor Umstattd commented that inadequately prepared applications are often submitted. She has received calls from the principal involved saying that the engineers involved are preparing them but that staff is “sitting” on them. With ESI involved, why are the applications not up to par? Is there a process that would advise the principals in the beginning so that staff is not erroneously blamed because the engineers didn’t do the right job in the first place. This is a poor reflection on the town when it may not be any of our doing. Susan Swift replied that there are ways that the PR could be managed better to make sure that everyone is properly informed. She is working with the town engineering

staff to address these problems. Commissioner Kalriess cited the process in DC saying that their process was improved. He suggested that some of the engineering firms might be approached to assist in the process. Ms Swift mentioned that once the town plan is approved, this will be one of her priorities to make sure that the process is carefully reviewed. Commissioner Kalriess said standard proffer statements would help, a process less than 18 months long, better leadership in giving direction to applicants (possibly through the Planning Commission). Commissioner Bangert agreed that if they were involved earlier, then the proffers might be submitted in an acceptable format. Chairman Wright asked for a study of how other communities are dealing with the process. Ms. Swift said they have already done some research but will delve further. Mr. Kalriess said that maybe the applicant should come in and make a presentation. Fairfax had a seminar that educated potential applicants, maybe we can do that. Chairman Wright talked about a basic template for proffer statements that would include what the town is looking for from the applicant.

Barbara Beech, Town Attorney, commented that this might not automatically solve the problem. The proffers that were submitted in tonight's application weren't necessarily lacking the proper language, they didn't say what the Commission wanted for that particular application. Meeting with people to come to agreement is one thing, giving them language to use is more of a forced issue on our part.

Susan Swift said there has been a change in the way the applications are submitted and reviewed, but there is room for further improvement. The fact that the Commission is taking a stand and firmly asking for what they would like to see is very helpful. Commissioner Kalriess said there is an issue of what is expected by the Town. He cautioned that the process should not characterize all applicants as being unaware of expectations. Commissioner Barnes asked if there could be an area set aside that applicants could use as a resource to guide them through the application process. Susan Swift went on to point out some other changes and asked the Commission to review and come back with suggestions. Chairman Wright recapped some of the comments and asked what kind of timeframe they might be looking at to further discuss and implement some of the changes.

Commissioner Hoovler asked how the changes might be tracked to make sure that they are improvements over the current system. The comment was made that there needs to be a strong cover letter that sets out that these are the rules, in order to streamline the process, they must be followed. Commissioner Bangert asked that the elimination of the preview should be discussed at a future meeting.

Chairman Wright said that the next item was the Crescent District Status and Schedule. Susan Swift asked to defer this item. Commissioner Kalriess expressed concern that they had not received information on the height proposals with regard to surrounding buildings. With discussion then addressing an affordability factor in the District, the Commission asked for further information on this subject. Ms. Swift said that these issues will be part of future discussion.

NEW BUSINESS

Chairman Wright opened the floor to nominations for various Commission liaisons.

Commissioner Bangert moved to nominate Kevin Wright as liaison to the Board of Architectural Review

Motion: Bangert
Second: Barnes
Carried: 7-0

Commissioner Barnes moved to nominate Chad Moore as liaison to the Environmental Advisory Commission.

Motion: Barnes
Second: Kalriess
Carried: 7-0

Commissioner Bangert moved to nominate Brett Burke to the Standing Residential Traffic Committee.

Motion: Bangert
Second: Hoovler
Carried: 7-0

ADJOURNMENT

The motion was made and seconded to adjourn at 10:55pm

Prepared by:

Approved by:

Linda DeFranco, Commission Clerk

Kevin Wright, Chairman